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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,519	11/09/2000	Satoru Nippa	2185-0480P	1737

2292 7590 06/11/2008  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
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MCCLENDON, SANZA L

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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06/11/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Notice of Allowability**

Application No.

09/708,519

Applicant(s)

NIPPA, SATORU

Examiner

Art Unit

Sanza L. McClendon

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/27/2008.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date ____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date ____     | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other ____.   |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. In response to the Remarks/Appeal Brief received on 2/27/2008, the examiner has carefully considered the Appeal Brief. The Brief is deemed unnecessary since after reconsideration of the Declaration filed 6/21/2007. The claims are deemed to be allowable over the prior art, Yamada et al (4,491,553).

### ***Response to Arguments***

3. Applicant's arguments, see Remarks/Declarations/Appeal Brief, filed 2/27/2008, with respect to claims 1-2 have been fully considered and are persuasive. The rejection of claims 1-2 under 35 102 (b) as being anticipated by Yamada et al (4,491,553) has been withdrawn. It is deemed that the teachings of the Yamada et al are distinguished from the instant invention. While Yamada et al teaches resin composites comprising a resin and an inorganic filler, and additionally fibrillatable PTFE, Yamada et al fails to teach and is deemed not to inherently having an index Y/X of 0.1 or less as can be seen in the 6/12/07 Declaration. It is deemed said declaration sets forth all the criteria that is needed by the PTO and is relevant to the patentability of the instant claims as written. Said declaration is commensurate in scope with the claimed invention and show that Yamada et al does not possess an index Y/X of 0.1 or less. The declarations additionally show that the tensile strength is improved, which is an unexpected result. Thus the composite and the method are deemed to be distinguished over the prior art (Yamada et al).

### ***Election/Restrictions***

4. Claims 1-2 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 3-4, directed to the process of making or using an allowable product,

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previously withdrawn from consideration as a result of a restriction requirement, is hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 02/04/2002 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

#### ***Allowable Subject Matter***

5. Claims 1-4 are allowed.

6. The following is an examiner's statement of reasons for allowance: The prior art, alone or in combination, fails to explicitly teach and/or fairly suggest a resin composite and a method of making the same comprising a resin and aluminum hydroxide having an average particle size of about 50 nm or smaller, wherein the composite has an index Y/X of 0.1 or less, wherein X is an average value of intensities of aluminum characteristic X-ray measured by scanning a beam on a straight line on the composite with an electron probe X-ray analyzer and the value of Y is a standard deviation of the intensities.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Drawings***

7. The drawing(s) filed 11/19/2000 are accepted by the examiner.

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***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanza L. McClendon whose telephone number is (571) 272-1074. The examiner can normally be reached on Monday through Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sanza L McClendon/

Primary Examiner

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